



STATE OF INDIANA

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September 17, 2015

Mr. Michael D. Edmondson
1530 East 81st Street
Indianapolis, IN 46240

Re: Formal Complaint 15-FC-200 & 15-FC-218 (consolidated); Alleged Violation of the Access to Public Records Act by the Metropolitan School District of Washington Township.

Dear Mr. Edmondson,

This advisory opinion is in response to your formal complaint alleging the Metropolitan School District of Washington Township ("District"), violated the Access to Public Records Act ("APRA") Ind. Code § 5-14-3-1 *et. seq.* The District has responded via counsel, Charles Rubright, Esq. His response is attached for your review. I issue the following opinion to your formal complaints received by the Office of the Public Access Counselor on June 29, 2015 and July 31, 2015.

BACKGROUND

Your complaint filed on June 29, 2015, alleges the Metropolitan School District of Washington Township ("District") violated the Access to Public Records Act by failing to produce information you requested.

On May 19, 2015, you sent a records request to the District, seeking copies of ingoing and outgoing emails from several email addresses. On June 2, 2015, you received a response from Superintendent Woodson. The response indicated that the District was currently in the middle of switching over email archive servers, and therefore the request would take additional time. Furthermore, the response stated that emails would need to be reviewed by a general counsel to determine if any information in the emails needed to be redacted. Finally, the response asked you to clarify your request by identifying both the sender and receivers, which would reduce time and expenses. On June 3, 2015, you responded and refused to clarify your request.

On June 3, this office provided possible clarifications to the original APRA request. You then sent an amended request to the District on June 5, with twenty (20) separate requests between a sender and a receiver of email within a specified date range. However, the

District claimed they were unable to immediately provide the information to you, citing the previous email server complications and redaction process.

Sometime later, you received emails from the District. You contend that these emails, which solely concern you or your family, were improperly redacted.

On August 17, counsel responded to your complaint. Counsel acknowledges that several emails which concern you or your family are redacted; however, counsel claims that these redactions are not because they are related to your family. Counsel notes that other emails, unrelated to your family, contain redactions. These redactions were made with advice from legal counsel, which the District contends is necessary under Ind. Code § 5-14-3-6(a).

DISCUSSION

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Metropolitan School District of Washington Township is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy District’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

An agency is not required to immediately produce the records, but rather it has a reasonable amount of time to locate and disclose them. The reasonable standard has been addressed in several other opinions and is determined on a case-by-case basis. In this case, the District has given justification for their inability to produce the records immediately, due to their problems with their email server. Furthermore, the District directly stated they were not denying the request, and would fill it as soon as they were able – 798 pages of documents were responsive. Due to these unique circumstances, it is understandable that the District would need more time to locate the records and redact them. The District assured that you will be notified when the records are available. Therefore, the District has not failed to disclose the records within a reasonable amount of time.

Your sole APRA complaint is that information was improperly redacted because the information was related to your family and that these redactions were done at the opinion of the District’s attorney.

Ind. Code § 5-14-3-6 (a) states

“[i]f a public record contains disclosable and nondisclosable information, the public agency shall, upon receipt of a request under this chapter, separate the material that may be disclosed and make it available for inspection and copying.”

To that end, the District went so far as creating a redaction log with the statutory exceptions to disclosure. While I have not had the opportunity to review the documents for propriety, this is a question of fact and not of law and therefore I would not be able to incorporate my opinion into a conclusive determination. It appears, however, the District has performed its due diligence in responding appropriately.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Metropolitan School District of Washington Township has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive, stylized manner.

Luke H. Britt
Public Access Counselor

Cc: Charles Rubright, Esq.